G. R. S. IX-5]

Previous references.

File No. 172-19

191 9.

Serial Nos. 182

(Cts)

Later references.

GENERAL AND REVENUE SECRETARIAT.

P12 E

Serial Nos. Two

Part B for March 1920.

SUBJECT.

Transfer of Criminal cases Nos 3/75, 4/76, 5/77 & 6/78 of Marikuppam Station to one of the courts in the Bangalore City

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2) To, The Dist Magte, Kolar
" Govt Advocate
" Registrar, Chief Court
No G 9902-4 Dy 27.2.20.

Authorises the Govt Advocate to move the Chief Court to have Cr: Cases Nos: ____ of Marikuppam Station transferred to one of the Courts in the Bangalore City.

W D 1250—GPB—30,000 28-1-19

Copy 27/2.

G. R. S. III—1] 1920. 4013

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 172--9

FILE HEADING.

Transfer of Criminal cases nos. 3/75, 4/76, 5/77 & 6/78 of Mankuppam station to one of the Courts in the Bangalore city.

From

The District Magistrate, Kolar District.

No. Ref J.C. 391/1920 Dated 26th Jan'y 1920 Received 29th Jan'y 1920

Diary No. 4013	Enclos. 5 Spare Copies. Nil	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Requests to obtain Sanction of Government for transfer of Criminal cases in Cr. nos. 3/75, 4/76, 5/77 & 6/78 of Mankuppam Station pending before the Assistant Commissioner & First Class Magistrate, Kolar Sub-Division, to one of the Courts in the Bangalore city, for reasons stated in the enclosed correspondence.

NOTES AND ORDERS.

Submitted with a draft sanctioning for Consideration or other orders.

Submitted for orders

D. M. 9/2

2/2/1920 for VP

II Member

4022 9-2-20

But why cases not in City cases be asked to transfer his cases where is his convenience & suspended & why should his work interfere in such cases.

Nil

9/2 D. M. 10/2

NOTES—First Sheet.

14013

G. R. S. III-2]

General and Revenue Secretariat.

Ch File No. 177 of 1919.

Serial No.

By perusal of the Correspondence attached to the paper under disposal it seems the procedure adopted can not be under S 185 (1). Because there is no doubt as to the locality of the offence and consequently to the Jurisdiction of the Court. So, the present application seems to have been made under S. 526 Sub-clauses (c), (d) & (e) Cr. Pro. Code and the procedure to be adopted under this Section is laid down in Sub-clause (4) of the Same Section. Hence, it seems it is necessary for Government to interfere in order to direct the Government Advocate to move the Chief Court for the transfer of Said Cases.

Exactly similar file A precedent file dealing with a case of exactly Similar nature is not traceable. As for ordinary Transfers of Cases from one Court to another, recent note of the Government Advocate in Venkatarayas case may be referred to.

Submitted with reference to oral instructions.

Flags in the linked file.

II Member

13/12/1920 13/12

Submd for orders

Put up

The first Accused may be instructed to apply for transfer of the Cases

24/12

Madras 24th Dec 1920.

Put up

NOTE—Contn. sheet.

G. R. S. III-2].

1602

(3)

General and Revenue Secretariat.

Ch File No. 172 of 191 9.

Serial No.	
2	To The District Magistrate, Kolar., the Government Advocate in Mysore & The Registrar, Chief Court. No. 9. 19902-4 dt 27th February 1920. Authorises the Govt. Advocate to move the Chief Court to have cr. Cases nos. 3/75, 4/76, 5/77, 6/78 of Marikuppam Stn, transferred to one of the Courts in the Bangalore city. From, The Dist Magistrate, Kolar District. Rc C 397/19.20 dt 26-2-1920 received on 2-3-1920. Requests Reminds that early orders may be obtained for the transfer of the Cases. Action has already been taken & necessary orders issued (Vide S. 2 above) Submitted for perusal & information. 2/3/1920. Asst 8/3. D. M. 8/3

B 53

9-MAR 1920

NOTE—Contn. sheet.

No.

District Magistrate's Office,

Kolar District,

Dated Kolar, the 26th January 1920.

14013.

From

Md. Zahiruddin Mecci, Esquire, B.A.,
District Magistrate, Kolar District.

19 28
Ch
172-19
SERIAL 1

To

C.S. Balasundaram Iyer, Esquire., B.A.,
Chief Secretary to the Government of Mysore,
Bangalore.

Sir,

In submitting herewith copies of entire correspondence ending with Kolar Gold Field Police Superintendent's letter No.663 dated 22nd January 1920, in the matter of transfer of Criminal cases in Crime Nos.3/75, 4/76, 5/77 and 6/78 of Marikuppam Station pending before the Assistant Commissioner and -- 1st class Magistrate, Kolar Gold Fields under the circumstances stated in the enclosed correspondence, I have the honor to request that Government may kindly be moved to accord sanction for transfer of the above said cases to one of the Courts in the Bangalore City for trial to avoid trouble and expense.

I have the honor to be,
Sir,
Your most obedient servant,

S Shamanna.

Treasury Assistant Commissioner,
For District Magistrate, Kolar Dt.
(Absent from station.)

From

The District Magistrate,
Kolar District.

19436

To

The Chief Secretary to the
Government of Mysore,
Bangalore.

Dated 26th January 1920.

Despatched

Received

General No. Ref. J.C. 397 / 19-20.

No.

Enclosure No. Five.

Requesting to obtain sanction of Government for transfer of Criminal cases in Crime Nos.3/75,4/76,5/77 & 6/78 of Marikuppam station pending before the Assistant Commissioner & 1st class Magistrate, Kolar Gold Fields to one of the Courts in the Bangalore City.

Letter No.663 dated 22nd January 1920, from the District Superintendent of Police, Kolar Gold Fields, to the District Magistrate, Kolar District.

I have the honor to state that in 4 cases of house breaking and theft which took place in the limits of C & M Station, Bangalore in the early part of September last a large amount of properties were recovered from accused Samy and Ponnasami in the limits of Marikuppam Station of this Circle 8 or 9 days after the occurrence and some more in the City of Bangalore later on.

When a reference was made to this effect, the Police of C.& M Station instead of Charge-sheeting the cases before their Magistrate transferred the cases for further action for offences under Section 411 I.P.C. to this Circle on the ground of their being no evidence of theft of the articles in their limits.

Subsequently the matter was reported to the Inspector General of Police who after communication with the Government Advocate -- obtained his opinion thereon and forwarded the same which is to the effect that if the evidence available is insufficient to bring home the offence of theft or robbery and retention or receiving of stolen properties was outside the limits of the C & M Station, the Magistrate has no alternative but to refuse to try the cases for offences under section 411 I.P.C. as section 180 (b) of the Criminal Procedure Code cannot apply and suggesting that charge-sheets may be placed -- before the Magistrate having jurisdiction and them move the Government for getting the cases transferred to one of the Courts in the Bangalore City to avoid trouble and expense.

Accordingly A Sheets were presented to the Court of the Special Magistrate, Kolar Gold Fields on the 17th Instant. The Crime Nos. of the cases are 3/75, 4/76, 5/77 and 6/78 of Marikuppam Station.

I therefore request that you will be so good as to move the -- Government for getting these cases transferred early to the file of the City Magistrate, Bangalore for disposal for the reasons stated

above. The Special Magistrate will be moved to grant an adjournment for the purpose.

Copies of the entire correspondence are herewith attached for kind perusal.

" C O P Y "

S Shamanna.

For District Magistrate,
Kolar District.

Letter No.404 dated 23rd October 1919, from the District Superintendent of Police, Kolar Gold Fields, to the District Superintendent of Police, C & M Station, Bangalore.

With reference to the transfer of the marginally noted cases :X: of the file of the Shoolay Police, Civil and Military Station to that of the Marikuppam Police, Kolar Gold Fields, as I have the honor to enquire why, when the cases can legally be tried by a Court having jurisdiction in the Civl and Military Station under Chapter XV of the Code of Criminal Procedure and the convenience of the parties is much better suited by a trial there as the thefts took place in your limits, this procedure has been adopted by the Shoolay Police and why I should not transfer the cases.

X Shoolay Case Diary No.68/176 dated 22/23-5-19.
" 131 dated 20-8-19.
" 20/42 dated 4-2-19.
" 147/354 dated 1-9-19.

"COPY"

S. Shamanna.

For District Magistrate,
Kolar District.

Letter No.7568 dated 4th November 1919, from the District Superintendent of Police, C & M Station, Bangalore, to the Superintendent of Police, Kolar Gold Fields.

With reference to your letter No.404 dated 23rd October 1919, I have the honor to state that the marginally noted cases were --

Shoolay station case diaries Nos.20/42, 68/176, and 147/354 of 19.	transferred to the Marikuppam Police as there was no evidence to connect the accused with the theft here, so that they may be produced against under section 411 I.P.C. as they were found in possession of the property at Marikuppam.
Ulsoor station case ~~diaries~~ diary No. 131/332 of 19.	

2. Section 181 (3) under Chapter XV C.P.C. does not apply, as the Mysore Courts and those of the station are not governed by the same law, inasmuch as the Procedure Codes as in force in the Mysore -- Territory and the Civil and Military station derive their authority from separate sources.

3. Under these circumstances I think matters should stand as they are.

"C O P.Y"

S. Shamanna.

For District Magistrate,
Kolar District.

Letter No.476/Enc.2 dated the 15th November 19, from the Superintendent of Police, Kolar Gold Fields, to the Inspector General of Police in Mysore, Bangalore.

I have the honor to state that on 9-9-19 on information Inspector Mr.Howell recovered from one Ponnasawmy residing in the house of Chakana seller Swamy at Rodgers camp, Mysore Mines, stolen property worth Rs.2,000/-. This property was connected with several cases of thefts on the file of the Shoolay Police C & M Station, reported to them during the past 7 months.

Besides, some more property and a Motor jack which was used by the accused Ponnaswamy as an implement of house-breaking, I hear was recovered at Bangalore.

The marginally noted cases on the file of the Shoolay Police C & M Station have been transferred to the Marikuppam Police. On 23rd October 1919 a reference was made to the District Superintendent of Police, C & M Station, Bangalore, about the retransfer of these cases suggesting to him that the convenience of the parties will be much better suited by a trial there and it was also in -- accordance with law. He is of opinion that the matters should stand as they are. Copies of this office letter No.404 dated 23rd October 1919 and the reply thereto are herein enclosed for information.

I am of opinion that the procedure adopted by the Shoolay Police in transferring these cases irregular and would refer to Illustrations (b) to Sec.180 of the British Criminal Procedure Code. I would therefore request that you will be kind enough to protest against the transfer of the cases on the above ground. The cases in my -- opinion legally be tried in C & M Station and there is no reason why the time of our Court and Police should be taken up in the matter.

Shoolay case Diary No.68/176 dated 22/23-5-19.
" No.131 dated 20-8-19.
" No.20/42 dated 4-2-19.
" No.147/354 dated 1-9-19.

"C O P Y"

S. Thammanna.

For District Magistrate,
Kolar District.

Letter No.173 dated 1/2nd December 1919, from the Government Advocate in Mysore, Bangalore, to the Inspector General of Police in Mysore, Bangalore.

With reference to your letter No.C.1574 dated the 26/27th November 1919, I have the honor to state that unless the evidence establishes a case of theft against the accused, it is open to the Magistrate in the Civil and Military Station, Bangalore, to say that he has no jurisdiction to try the cases.

It ~~is~~ has been held both by the Madras High Court(Vide L.L.R.1 Madras 171) and the Alahabad High Court (I.L.R.9 Alahabad 523) that were no offence is proved to have been committed by the accused -- either of theft or of receiving stolen property in British Territory, the accused could not be convicted for an offence committed outside British Territory. This view has also been adopted in at least 2 cases decided by our Chief Court.(Vide 7 M.C.C.R.113 and 9.M.C.C.R.79).

In the cases under reference if the evidence available is insufficient to bring home the offence of theft or robbery and if the retension or receiving of stolen property was outside the limits of the Civil and Military Station then, on the authority of the cases -- referred to above, the Magistrate has no other alternative than to -- refuse to try the case for an offence under section 411, Indian Penal Code as section 180 (b) of the Criminal Procedure Code cannot apply.

Under the circumstances the beat course appears to be to place the Charge-sheets before the Magistrate having jurisdiction and then to move the Government for getting the cases transferred to one of the Courts in the Bangalore City for trial, to avoid the trouble and expens referred to in your letter under reference.

C.No.1574. Office of the Inspector General of Police in Mysore,
Dated Camp.Karapur 7/11th December 1919.

Copy of the above is forwarded to the Superintendent of Police, Kolar Gold Fields, for information and necessary action.

Sd/- A. Hayes,
For Offg.Inspector General of Police.

" C O P Y "

S Shamanna.

For District Magistrate,
Kolar District.

G.R.S. VI–71]

SUBJECT..... Re Permission to the Govt Advocate Bangalore for the transfer of Kolar Criminal Cases to Court — Bangalore City —

Diary No. of letter replied to..... 1/20

General and Revenue Secretariat

( )

, *the* 191 .

Date of issue..... 27/2/20

Signed by..... M C Rao

Section

File No.

Serial No. 2

Proceedings of the Government of His Highness the Maharaja of **Mysore.**

Read—

Letter no Ref J.C. 397/19-20 dt. 26th Jan 1920, from the District Magistrate Kolar District, requesting ~~that Govern-~~ ment ~~may accord~~ sanction for the transfer of Criminal Cases in Crim. Nos 3/75, 4/76, 5/77, & 6/78 of Mallikappa stahin pending before the Asst. Commissioner & First Class Magistrate, Kolar Gold Fields, to one of the Courts in the Bangalore ~~Order thereon~~ No. City, for reasons stated in the enclosure to his letter.

Order no — G 9902-4

The Government Advocate is requested to move the Chief Court for the transfer of the Cases referred to above.

By order,

, Chief Secretary.

To

The District Magistrate, Kolar District.

The Government Advocate in Mysore.

May this be

i Printed ?

ii treated as a standing order ?

iii published in the Gazette, English Part ?

iv translated ?

v placed at the disposal of the press ?

vi published in the Gazette, Kannada Part ?

16027 CH 19-20
172—29
Reminder

District Magistrate's Office,
Kolar District,
Dated Kolar, the 26th February 1920.

Ayc 397/CG-20

From

Md. Zahiruddin Mecci, Esquire., B.A.,
District Magistrate, Kolar District.

To

C.S. Balasundaram Iyer, Esquire, B.A.,
Chief Secretary to the Government
of Mysore, Bangalore.

Sir,

In inviting reference to my letter No.J.C.397 of 19-20 dated 26th January 1920, regarding the transfer of certain Criminal Cases pending before the 1st Class Magistrate, Kolar Gold Fields, I have the honor to request that early sanction of Government for their transfer may kindly be obtained and forwarded.

I have the honor to be,
Sir,
Your most obedient servant,

S. Ramanna
Treasury Assistant Commissioner,
For District Magistrate, Kolar District.
(Absent from station.)

191

From

22985 The District Magistrate,
Kolar District.

To

The Chief Secretary to the
Government of Mysore,
Bangalore.

Dated 26th February 1920.

Despatched

Received

General No.

No.

Enclosure No.

Requesting that early sanction of Government may kindly be obtained regarding transfer of certain cases from the Court of the Spacial Magistrate, Kolar Gold Fields